

AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 809

Introduced by Assembly Member Blakeslee

February 22, 2007

An act to amend ~~Sections 399.12 and~~ *Section 399.12.5* of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL’S DIGEST

AB 809, as amended, Blakeslee. Energy: renewable energy resources.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard).

The existing definition of an “eligible renewable energy resource,” includes the electricity generated by a small hydroelectric generation facility of 30 megawatts or less procured or owned by an electrical corporation as of January 1, 2003. An exception to this provision provides that a small hydroelectric generation facility that is an eligible

renewable energy resource retains eligibility if efficiency improvements at the facility undertaken after January 1, 2003, cause the generating capacity of the facility to exceed 30 megawatts, and the efficiency improvements do not result in a new or increased appropriation or diversion of water from a watercourse. ~~The existing definition of an “eligible renewable energy resource” provides that a new hydroelectric facility is not an eligible renewable energy resource if it will require a new or increased appropriation or diversion of water from a watercourse. The existing definition of an “eligible renewable energy resource” provides that an existing conduit hydroelectric facility, as defined by a specified federal law, of 30 megawatts or less is an eligible renewable energy source and provides that a new conduit hydroelectric facility is an eligible renewable energy resource so long as it does not require a new or increased appropriation or diversion of water from a watercourse.~~

Under existing law, the State Water Resources Control Board is required to consider and act upon all applications for permits to appropriate water. Existing law requires the board to expedite processing of applications for certain small hydroelectric powerplants and applications or petitions for retrofit of hydroelectric plants at existing dams, canals, or conduits where the streamflow regime will not be changed and where there will be no significant adverse environmental impacts.

Under existing law, the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with authority over matters relating to water quality. Existing law provides for the issuance by the state board, or by a regional board to which the state board has delegated authority, of a water quality certification pursuant to the federal Clean Water Act.

~~This bill would recast the provisions pertaining to the eligibility of electricity generated from hydroelectric facilities to meet the renewables portfolio standard. The bill would provide that a small hydroelectric generation facility of 30 megawatts or less that commences operation after December 31, 2005, is an eligible renewable energy resource if it does not change the streamflow regime or cause significant adverse environmental impacts and that a hydroelectric facility of 30 megawatts or less that commences operation after December 31, 2005, and utilizes the hydroelectric potential of a conduit, as defined, is an eligible renewable energy resource if it does not change the streamflow regime or cause significant adverse environmental impacts. The bill would~~

~~provide that a small hydroelectric generation facility of 30 megawatts or less that does not meet the above-described requirements is eligible only if a retail seller owned or procured the electricity from the facility as of December 31, 2005, and that the facility does not lose its eligibility if efficiency improvements undertaken after January 1, 2003, cause the generating capacity of the facility to exceed 30 megawatts, if the efficiency improvements do not change the streamflow regime or cause significant adverse environmental impacts. The bill would provide that a hydroelectric facility of 30 megawatts or less that utilizes the hydroelectric potential of a conduit, but does not meet the above-described requirements, is an eligible renewable energy resource if a retail seller owned or procured the electricity from the facility as of December 31, 2005. The bill would provide that the incremental increase in the amount of electricity generated from a hydroelectric generation facility as a result of efficiency improvements at the facility is electricity from an eligible renewable energy resource, without regard to the electrical output of the facility, if the incremental increase is the result of efficiency improvements from a retrofit that is eligible for expedited processing as determined by the State Water Resources Control Board and do not result in a new or increased appropriation or diversion of water from a watercourse, the hydroelectric generation facility has received a water quality certification or exemption from the board or a regional board, and the hydroelectric generation facility was operational prior to January 1, 2007. The bill would provide that a retrofit does not result in a new or increased appropriation or diversion of water if the state board determines the retrofit is eligible for expedited processing pursuant to the above described application provision.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 **SECTION 1.** *Section 399.12.5 of the Public Utilities Code is*
- 2 *amended to read:*
- 3 399.12.5. (a) Notwithstanding Section 399.12, a small
- 4 hydroelectric generation facility that satisfies the criteria for an
- 5 eligible renewable energy resource pursuant to Section 399.12
- 6 shall not lose its eligibility if efficiency improvements undertaken
- 7 after January 1, 2003, cause the generating capacity of the facility
- 8 to exceed 30 megawatts, and the efficiency improvements do not

1 result in a new or increased appropriation or diversion of water
2 from a watercourse. The entire generating capacity of the facility
3 shall be eligible.

4 *(b) Notwithstanding Section 399.12, the incremental increase*
5 *in the amount of electricity generated from a hydroelectric*
6 *generation facility as a result of efficiency improvements at the*
7 *facility, is electricity from an eligible renewable energy resource,*
8 *without regard to the electrical output of the facility, if all of the*
9 *following conditions are met:*

10 *(1) The incremental increase is the result of efficiency*
11 *improvements from a retrofit that do not result in a new or*
12 *increased appropriation or diversion of water from a watercourse.*
13 *For purposes of this paragraph, a retrofit does not result in a new*
14 *or increased appropriation or diversion of water if the State Water*
15 *Resources Control Board determines that the retrofit is eligible*
16 *for expedited processing pursuant to Section 1490 of the Water*
17 *Code.*

18 *(2) The hydroelectric generation facility has, within the*
19 *immediately preceding 15 years, received an exemption or*
20 *certification from the State Water Resources Control Board*
21 *pursuant to Section 401 of the Clean Water Act (33 U.S.C. Sec.*
22 *1341), or has received certification from a regional board to which*
23 *the state board has delegated authority to issue certification.*

24 *(3) The hydroelectric generation facility was operational prior*
25 *to January 1, 2007.*

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**All matter omitted in this version of the bill
appears in the bill as introduced in the
Assembly, February 22, 2007. (JR11)**